

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2371

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 42-2003, Arizona Revised Statutes, is amended to  
3 read:

4 42-2003. Authorized disclosure of confidential information

5 A. Confidential information relating to:

6 1. A taxpayer may be disclosed to the taxpayer, its successor in  
7 interest or a designee of the taxpayer who is authorized in writing by the  
8 taxpayer. A principal corporate officer of a parent corporation may execute  
9 a written authorization for a controlled subsidiary.

10 2. A corporate taxpayer may be disclosed to any principal officer, any  
11 person designated by a principal officer or any person designated in a  
12 resolution by the corporate board of directors or other similar governing  
13 body.

14 3. A partnership may be disclosed to any partner of the  
15 partnership. This exception does not include disclosure of confidential  
16 information of a particular partner unless otherwise authorized.

17 4. An estate may be disclosed to the personal representative of the  
18 estate and to any heir, next of kin or beneficiary under the will of the  
19 decedent if the department finds that the heir, next of kin or beneficiary  
20 has a material interest which will be affected by the confidential  
21 information.

22 5. A trust may be disclosed to the trustee or trustees, jointly or  
23 separately, and to the grantor or any beneficiary of the trust if the  
24 department finds that the grantor or beneficiary has a material interest  
25 which will be affected by the confidential information.

26 6. Any taxpayer may be disclosed if the taxpayer has waived any rights  
27 to confidentiality either in writing or on the record in any administrative  
28 or judicial proceeding.

29 7. The name and taxpayer identification numbers of persons issued  
30 direct payment permits may be publicly disclosed.

1                   B. Confidential information may be disclosed to:

2                   1. Any employee of the department whose official duties involve tax  
3                   administration.

4                   2. The office of the attorney general solely for its use in  
5                   preparation for, or in an investigation which may result in, any proceeding  
6                   involving tax administration before the department or any other agency or  
7                   board of this state, or before any grand jury or any state or federal court.

8                   3. The department of liquor licenses and control for its use in  
9                   determining whether a spirituous liquor licensee has paid all transaction  
10                  privilege taxes and affiliated excise taxes incurred as a result of the sale  
11                  of spirituous liquor, as defined in section 4-101, at the licensed  
12                  establishment and imposed on the licensed establishments by this state and  
13                  its political subdivisions.

14                  4. Other state tax officials whose official duties require the  
15                  disclosure for proper tax administration purposes if the information is  
16                  sought in connection with an investigation or any other proceeding conducted  
17                  by the official. Any disclosure is limited to information of a taxpayer who  
18                  is being investigated or who is a party to a proceeding conducted by the  
19                  official.

20                  5. The following agencies, officials and organizations, if they grant  
21                  substantially similar privileges to the department for the type of  
22                  information being sought, pursuant to statute and a written agreement between  
23                  the department and the foreign country, agency, state, Indian tribe or  
24                  organization:

25                  (a) The United States internal revenue service, alcohol and tobacco  
26                  tax and trade bureau of the United States treasury, United States bureau of  
27                  alcohol, tobacco, firearms and explosives of the United States department of  
28                  justice, United States drug enforcement agency and federal bureau of  
29                  investigation.

30                  (b) A state tax official of another state.

1                   (c) An organization of states, federation of tax administrators or  
2 multistate tax commission that operates an information exchange for tax  
3 administration purposes.

4                   (d) An agency, official or organization of a foreign country with  
5 responsibilities that are comparable to those listed in subdivision (a), (b)  
6 or (c) of this paragraph.

7                   (e) An agency, official or organization of an Indian tribal government  
8 with responsibilities comparable to the responsibilities of the agencies,  
9 officials or organizations identified in subdivision (a), (b) or (c) of this  
10 paragraph.

11                 6. The auditor general, in connection with any audit of the department  
12 subject to the restrictions in section 42-2002, subsection D.

13                 7. Any person to the extent necessary for effective tax administration  
14 in connection with:

15                   (a) The processing, storage, transmission, destruction and  
16 reproduction of the information.

17                   (b) The programming, maintenance, repair, testing and procurement of  
18 equipment for purposes of tax administration.

19                 8. The office of administrative hearings relating to taxes  
20 administered by the department pursuant to section 42-1101, but the  
21 department shall not disclose any confidential information:

22                   (a) Regarding income tax, withholding tax or estate tax.

23                   (b) On any tax issue relating to information associated with the  
24 reporting of income tax, withholding tax or estate tax.

25                 9. The United States treasury inspector general for tax administration  
26 for the purpose of reporting a violation of internal revenue code section  
27 7213A (26 United States Code section 7213A), unauthorized inspection of  
28 returns or return information.

29                 10. The financial management service of the United States treasury  
30 department for use in the treasury offset program.

1           11. The United States treasury department or its authorized agent for  
2       use in the state income tax levy program and in the electronic federal tax  
3       payment system.

4           12. The department of commerce for its use in:

5           (a) Qualifying motion picture production companies for the tax  
6       incentives provided for motion picture production under chapter 5 of this  
7       title and sections 43-1075 and 43-1163.

8           (b) Fulfilling its annual reporting responsibility pursuant to section  
9       41-1517, subsections S and T.

10          (c) Qualifying applicants for the motion picture infrastructure  
11       project tax credits under sections 43-1075.01 and 43-1163.01.

12          13. A prosecutor for purposes of section 32-1164, subsection C.

13          14. The state fire marshal for use in determining compliance with and  
14       enforcing title 41, chapter 16, article 3.1.

15          C. Confidential information may be disclosed in any state or federal  
16       judicial or administrative proceeding pertaining to tax administration  
17       pursuant to the following conditions:

18           1. One or more of the following circumstances must apply:

19           (a) The taxpayer is a party to the proceeding.

20           (b) The proceeding arose out of, or in connection with, determining  
21       the taxpayer's civil or criminal liability, or the collection of the  
22       taxpayer's civil liability, with respect to any tax imposed under this title  
23       or title 43.

24           (c) The treatment of an item reflected on the taxpayer's return is  
25       directly related to the resolution of an issue in the proceeding.

26           (d) Return information directly relates to a transactional  
27       relationship between a person who is a party to the proceeding and the  
28       taxpayer and directly affects the resolution of an issue in the proceeding.

29          2. Confidential information may not be disclosed under this subsection  
30       if the disclosure is prohibited by section 42-2002, subsection C or D.

1           D. Identity information may be disclosed for purposes of notifying  
2 persons entitled to tax refunds if the department is unable to locate the  
3 persons after reasonable effort.

4           E. The department, upon the request of any person, shall provide the  
5 names and addresses of bingo licensees as defined in section 5-401, verify  
6 whether or not a person has a privilege license and number, a distributor's  
7 license and number or a withholding license and number or disclose the  
8 information to be posted on the department's web site or otherwise publicly  
9 accessible pursuant to section 42-1124, subsection F and section 42-3201,  
10 subsection A.

11          F. A department employee, in connection with the official duties  
12 relating to any audit, collection activity or civil or criminal  
13 investigation, may disclose return information to the extent that disclosure  
14 is necessary to obtain information which is not otherwise reasonably  
15 available. These official duties include the correct determination of and  
16 liability for tax, the amount to be collected or the enforcement of other  
17 state tax revenue laws.

18          G. If an organization is exempt from this state's income tax as  
19 provided in section 43-1201 for any taxable year, the name and address of the  
20 organization and the application filed by the organization upon which the  
21 department made its determination for exemption together with any papers  
22 submitted in support of the application and any letter or document issued by  
23 the department concerning the application are open to public inspection.

24          H. Confidential information relating to transaction privilege tax, use  
25 tax, severance tax, jet fuel excise and use tax and rental occupancy tax may  
26 be disclosed to any county, city or town tax official if the information  
27 relates to a taxpayer who is or may be taxable by the county, city or  
28 town. Any taxpayer information released by the department to the county,  
29 city or town:

- 30           1. May only be used for internal purposes.  
31           2. May not be disclosed to the public in any manner that does not  
32 comply with confidentiality standards established by the department. The

1 county, city or town shall agree in writing with the department that any  
2 release of confidential information that violates the confidentiality  
3 standards adopted by the department will result in the immediate suspension  
4 of any rights of the county, city or town to receive taxpayer information  
5 under this subsection.

6 I. The department may disclose statistical information gathered from  
7 confidential information if it does not disclose confidential information  
8 attributable to any one taxpayer. In order to comply with the requirements  
9 of section 42-5029, subsection A, paragraph 3, the department may disclose to  
10 the state treasurer statistical information gathered from confidential  
11 information, even if it discloses confidential information attributable to a  
12 taxpayer.

13 J. The department may disclose the aggregate amounts of any tax  
14 credit, tax deduction or tax exemption enacted after January 1, 1994.  
15 Information subject to disclosure under this subsection shall not be  
16 disclosed if a taxpayer demonstrates to the department that such information  
17 would give an unfair advantage to competitors.

18 K. Except as provided in section 42-2002, subsection C, confidential  
19 information, described in section 42-2001, paragraph 2, subdivision (a), item  
20 (iii), may be disclosed to law enforcement agencies for law enforcement  
21 purposes.

22 L. The department may provide transaction privilege tax license  
23 information to property tax officials in a county for the purpose of  
24 identification and verification of the tax status of commercial property.

25 M. The department may provide transaction privilege tax, luxury tax,  
26 use tax, property tax and severance tax information to the ombudsman-citizens  
27 aide pursuant to title 41, chapter 8, article 5.

28 N. Except as provided in section 42-2002, subsection D, a court may  
29 order the department to disclose confidential information pertaining to a  
30 party to an action. An order shall be made only upon a showing of good cause  
31 and that the party seeking the information has made demand upon the taxpayer  
32 for the information.

1           O. This section does not prohibit the disclosure by the department of  
2 any information or documents submitted to the department by a bingo  
3 licensee. Before disclosing the information the department shall obtain the  
4 name and address of the person requesting the information.

5           P. If the department is required or permitted to disclose confidential  
6 information, it may charge the person or agency requesting the information  
7 for the reasonable cost of its services.

8           Q. Except as provided in section 42-2002, subsection D, the department  
9 of revenue shall release confidential information as requested by the  
10 department of economic security pursuant to section 42-1122 or 46-291.  
11 Information disclosed under this subsection is limited to the same type of  
12 information that the United States internal revenue service is authorized to  
13 disclose under section 6103(1)(6) of the internal revenue code.

14          R. Except as provided in section 42-2002, subsection D, the department  
15 of revenue shall release confidential information as requested by the courts  
16 and clerks of the court pursuant to section 42-1122.

17          S. To comply with the requirements of section 42-5031, the department  
18 may disclose to the state treasurer, to the county stadium district board of  
19 directors and to any city or town tax official that is part of the county  
20 stadium district confidential information attributable to a taxpayer's  
21 business activity conducted in the county stadium district.

22          T. The department shall release confidential information as requested  
23 by the attorney general for purposes of determining compliance with and  
24 enforcing section 44-7101, the master settlement agreement referred to  
25 therein and subsequent agreements to which the state is a party that amend or  
26 implement the master settlement agreement. Information disclosed under this  
27 subsection is limited to luxury tax information relating to tobacco  
28 manufacturers, distributors, wholesalers and retailers and information  
29 collected by the department pursuant to section 44-7101(2)(j).

30          U. For proceedings before the department, the office of administrative  
31 hearings, the board of tax appeals or any state or federal court involving  
32 penalties that were assessed against a return preparer or electronic return

1            preparer pursuant to section 42-1103.02 or 42-1125.01, confidential  
2            information may be disclosed only before the judge or administrative law  
3            judge adjudicating the proceeding, the parties to the proceeding and the  
4            parties' representatives in the proceeding prior to its introduction into  
5            evidence in the proceeding. The confidential information may be introduced  
6            as evidence in the proceeding only if the taxpayer's name, the names of any  
7            dependents listed on the return, all social security numbers, the taxpayer's  
8            address, the taxpayer's signature and any attachments containing any of the  
9            foregoing information are redacted and if either:

10            1. The treatment of an item reflected on such return is or may be  
11            related to the resolution of an issue in the proceeding.

12            2. Such return or return information relates or may relate to a  
13            transactional relationship between a person who is a party to the proceeding  
14            and the taxpayer which directly affects the resolution of an issue in the  
15            proceeding.

16            V. The department may disclose to the attorney general confidential  
17            information received under section 44-7111 and requested by the attorney  
18            general for purposes of determining compliance with and enforcing section  
19            44-7111. The department and attorney general shall share with each other the  
20            information received under section 44-7111, and may share the information  
21            with other federal, state or local agencies only for the purposes of  
22            enforcement of section 44-7101, section 44-7111 or corresponding laws of  
23            other states.

24            W. THE DEPARTMENT MAY PROVIDE THE NAME AND ADDRESS OF QUALIFYING  
25            HOSPITALS AND QUALIFYING HEALTH CARE ORGANIZATIONS, AS DEFINED IN SECTION  
26            42-5001, TO A BUSINESS CLASSIFIED AND REPORTING TRANSACTION PRIVILEGE TAX  
27            UNDER THE UTILITIES CLASSIFICATION."

28            Amend title to conform

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2/25/09

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